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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies.

Rulemaking 06-04-009
(Filed April 13, 2006)

ADMINISTRATIVE LAW JUDGE'S RULING GRANTING NOTICES OF INTENT TO CLAIM COMPENSATION

1. Summary

It is ruled that the Green Power Institute (GPI), Redefining Progress, San Francisco Community Power (SF Power), and The Utility Reform Network (TURN) have met all relevant requirements to claim intervenor compensation in this proceeding. However, a finding of eligibility does not necessarily guarantee an award of compensation. The requirements of Pub. Util. Code §§ 1801-1804¹ are addressed below.

2. NOI Requirements

A. Timely Filing

Pursuant to § 1804(a)(1), a customer who intends to seek a compensation award shall, within 30 days after the prehearing conference (PHC), file and serve a Notice of Intent (NOI) to claim compensation on all parties to the proceeding.

¹ All statutory references are to the Pub. Util. Code.

The PHC in this proceeding was held on May 10, 2006. SF Power timely filed its NOI on May 19, 2006; and TURN, GPI, and Redefining Progress timely filed NOIs on June 9, 2006.

B. Customer Status

Pursuant to Decision 98-04-059, this ruling must determine whether the intervenor is a customer, as defined in § 1802(b), and whether the intervenor is a participant representing consumers, a representative authorized by a customer, or a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.

GPI, Redefining Progress, SF Power and TURN all meet this requirement because they are organizations, as described in § 1802(b)(1)(C), authorized pursuant to their articles of incorporation or bylaws to represent the interests of their members, many of whom are residential ratepayers.

C. Significant Financial Hardship

Only those customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation. Section 1804(a)(2)(B) allows the customer to include a showing of significant financial hardship in the NOI. Section 1802(g) defines “significant financial hardship”:

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. Alternatively, the customer may make the required showing in the request for an award of compensation.

GPI and Redefining Progress showed that the economic interests of their individual members are small in comparison to the costs of effective participation in Commission proceedings. In addition, the cost for GPI and Redefining Progress to participate in Commission proceedings substantially outweighs the benefit to individual customers they represent. The members of each are small residential and business customers whose individual interests in this proceeding are small relative to the costs of participation.

SF Power and TURN meet this requirement through a rebuttable presumption of eligibility, pursuant to § 1804(b)(1), as both were found eligible for compensation in other proceedings within one year of the commencement of this proceeding (Administrative Law Judge (ALJ) Ruling dated November 15, 2005 in Application (A.) 05-06-006 for GPI; and ALJ Ruling dated November 4, 2005 in A.05-02-027 for TURN). Should any party rebut this presumption, SF Power and TURN are granted leave to furnish evidence of its significant financial hardship within 10 days of the rebuttal filing.

D. Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) requires an NOI to include a statement of the nature and extent of the customer's planned participation in the proceeding to the extent this can be predicted.

GPI plans to participate in hearings and workshops, prepare testimony, and submit motions and briefs as appropriate. GPI expects to concentrate in the areas of renewable energy and the development of a greenhouse gas emissions control program for the state's regulated energy companies.

Redefining Progress plans to actively participate in hearings and workshops, to file written comments and responses to comments, possibly including motions or briefs. In Phase I, Redefining Progress will focus mainly on

the interactions between the proposed performance standard and the subsequent emissions cap. They also expect to offer input on the design of the performance standard.

SF Power plans to focus its participation on broad policy implications of any greenhouse gas emissions reduction program, how that program integrates with other energy related goals and programs of this Commission, and the impacts on low income ratepayers.

TURN expects to participate in workshops, file comments, participate in any evidentiary hearings, file briefs, and comment on any proposed or alternate decisions, as required.

The intervenors all intend to consult regularly with each other and other participating parties, as much as possible, to avoid unnecessary duplication of effort.

E. Itemized Estimate of Compensation

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive.

GPI estimates a total projected budget of \$34,200; Redefining Progress \$15,000; SF Power \$60,550; and TURN \$97,100. These estimates are based on proposed hourly rates that will be addressed in request for compensation filed by each intervenor.

Summary of Intervenor Compensation Requests

Attorney/Category	Estimated Hours	Hourly Rate	Estimated Cost
Green Power Institute			
Dr. Gregory Morris	120	\$240	\$28,800
Research Assistant	180	\$30	\$5,400
Total			\$34,200
Redefining Progress			
J. Andrew Hoerner	40	\$300	\$12,000
	20	\$150	\$3,000
Total			\$15,000
San Francisco Community Power			
Edward J Poole	60	\$285	\$17,100
Expert Witness ²	200	\$197	\$39,450
Other Expenses			\$4,000
Total			\$60,550
TURN			
Marcel Hawiger	100	\$280	\$28,000
Nina Suetake	150	\$200	\$30,000
Matthew Freedman	50	\$280	\$14,000
Mike Florio	10	\$510	\$5,100
Consultant Expenses			\$20,000

² SF Power anticipates using roughly 200 hours of consulting and expert witness testimony from Richard J. McAnn (\$185/hour), Steven J. Moss (\$185/hour), Dallas Burtraw (\$250/hour) and Alexander Farrell (\$150/hour).

Total			\$97,100
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We will require specificity in all costs and expenses when these intervenors ultimately seek compensation. As required of all intervenors, GPI, Redefining Progress, SF Power and TURN must fully support their requests for compensation, including the reasonableness of the hours spent and hourly rates.

This proceeding will be addressed in phases. The intervenors state they now find difficulty in accurately estimating itemized expenses for Phase 2, without knowing the scope of issues involved. To facilitate more accurate itemized expense estimates, intervenors may amend their NOIs within 30 days of the issuance of a Scoping Memo for Phase 2 to reflect these expenses.

IT IS RULED that:

1. The Green Power Institute (GPI), Redefining Progress, San Francisco Community Power (SF Power), and The Utility Reform Network (TURN) have met the eligibility requirements of Pub. Util. Code § 1804(a), including the requirement of establishing significant financial hardship, and are found eligible for compensation in this proceeding.
2. GPI, Redefining Progress, SF Power and TURN are customers as that term is defined in § 1802(b)(1)(C), as groups or organizations authorized to represent the interests of residential ratepayers.
3. A finding of eligibility in no way assures compensation.
4. GPI, Redefining Progress, SF Power and TURN may file amended Notices of Intent (NOIs) to claim compensation to reflect additional costs associated with Phase 2 of this proceeding.

5. Amended NOIs are due within 30 days of any Scoping Memo being issued in Phase 2 of this proceeding.

Dated July 10, 2006, at San Francisco, California.

/s/ JONATHAN D. LAKRITZ

Jonathan D. Lakritz
Administrative Law Judge

INFORMATION REGARDING SERVICE

I have provided notification of filing to the electronic mail addresses on the attached service list.

Upon confirmation of this document's acceptance for filing, I will cause a copy of the filed document to be served upon the service list to this proceeding by U.S. mail. The service list I will use to serve the copy of the filed document is current as of today's date.

Dated July 10, 2006, at San Francisco, California.

/s/ ELVIRA NIZ

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